

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5101

Chapter 300, Laws of 2005

59th Legislature
2005 Regular Session

RENEWABLE ENERGY INDUSTRIES--TAX CREDITS

EFFECTIVE DATE: 7/1/05

Passed by the Senate April 20, 2005
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 13, 2005
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 6, 2005.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5101** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 6, 2005 - 11:16 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5101

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Morton, Fraser, Rockefeller, Pridemore, Regala, Hewitt, Kline, Kohl-Welles, Brown and Oke)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to providing incentives to support renewable
2 energy; adding new sections to chapter 82.16 RCW; creating new
3 sections; providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the use of
6 renewable energy resources generated from local sources such as solar
7 and wind power benefit our state by reducing the load on the state's
8 electric energy grid, by providing nonpolluting sources of electricity
9 generation, and by the creation of jobs for local industries that
10 develop and sell renewable energy products and technologies.

11 The legislature finds that Washington state has become a national
12 and international leader in the technologies related to the solar
13 electric markets. The state can support these industries by providing
14 incentives for the purchase of locally made renewable energy products.
15 Locally made renewable technologies benefit and protect the state's
16 environment. The legislature also finds that the state's economy can
17 be enhanced through the creation of incentives to develop additional
18 renewable energy industries in the state.

1 The legislature intends to provide incentives for the greater use
2 of locally created renewable energy technologies, support and retain
3 existing local industries, and create new opportunities for renewable
4 energy industries to develop in Washington state.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Customer-generated electricity" means the alternating current
8 electricity that is generated from a renewable energy system located on
9 an individual's, businesses', or local government's real property that
10 is also provided electricity generated by a light and power business.
11 A system located on a leasehold interest does not qualify under this
12 definition. "Customer-generated electricity" does not include
13 electricity generated by a light and power business with greater than
14 one thousand megawatt hours of annual sales or a gas distribution
15 business.

16 (2) "Economic development kilowatt-hour" means the actual kilowatt-
17 hour measurement of customer-generated electricity multiplied by the
18 appropriate economic development factor.

19 (3) "Photovoltaic cell" means a device that converts light directly
20 into electricity without moving parts.

21 (4) "Renewable energy system" means a solar energy system, an
22 anaerobic digester as defined in RCW 82.08.900, or a wind generator
23 used for producing electricity.

24 (5) "Solar energy system" means any device or combination of
25 devices or elements that rely upon direct sunlight as an energy source
26 for use in the generation of electricity.

27 (6) "Solar inverter" means the device used to convert direct
28 current to alternating current in a photovoltaic cell system.

29 (7) "Solar module" means the smallest nondivisible self-contained
30 physical structure housing interconnected photovoltaic cells and
31 providing a single direct current electrical output.

32 (8) "Standards for interconnection to the electric distribution
33 system" means technical, engineering, operational, safety, and
34 procedural requirements for interconnection to the electric
35 distribution system of a light and power business.

1 NEW SECTION. **Sec. 3.** (1) Any individual, business, or local
2 governmental entity, not in the light and power business or in the gas
3 distribution business, may apply to the light and power business
4 serving the situs of the system, each fiscal year beginning on July 1,
5 2005, for an investment cost recovery incentive for each kilowatt-hour
6 from a customer-generated electricity renewable energy system installed
7 on its property that is not interconnected to the electric distribution
8 system. No incentive may be paid for kilowatt-hours generated before
9 July 1, 2005, or after June 30, 2014.

10 (2) When light and power businesses serving eighty percent of the
11 total customer load in the state adopt uniform standards for
12 interconnection to the electric distribution system, any individual,
13 business, or local governmental entity, not in the light and power
14 business or in the gas distribution business, may apply to the light
15 and power business serving the situs of the system, each fiscal year,
16 for an investment cost recovery incentive for each kilowatt-hour from
17 a customer-generated electricity renewable energy system installed on
18 its property that is not interconnected to the electric distribution
19 system and from a customer-generated electricity renewable energy
20 system installed on its property that is interconnected to the electric
21 distribution system. Uniform standards for interconnection to the
22 electric distribution system means those standards established by light
23 and power businesses that have ninety percent of total requirements the
24 same. No incentive may be paid for kilowatt-hours generated before
25 July 1, 2005, or after June 30, 2014.

26 (3)(a) Before submitting for the first time the application for the
27 incentive allowed under this section, the applicant shall submit to the
28 department of revenue and to the climate and rural energy development
29 center at the Washington State University, established under RCW
30 28B.30.642, a certification in a form and manner prescribed by the
31 department that includes, but is not limited to, the following
32 information:

33 (i) The name and address of the applicant and location of the
34 renewable energy system;

35 (ii) The applicant's tax registration number;

36 (iii) That the electricity produced by the applicant meets the
37 definition of "customer-generated electricity" and that the renewable
38 energy system produces electricity with:

1 (A) Any solar inverters and solar modules manufactured in
2 Washington state;

3 (B) A wind generator powered by blades manufactured in Washington
4 state;

5 (C) A solar inverter manufactured in Washington state;

6 (D) A solar module manufactured in Washington state; or

7 (E) Solar or wind equipment manufactured outside of Washington
8 state;

9 (iv) That the electricity can be transformed or transmitted for
10 entry into or operation in parallel with electricity transmission and
11 distribution systems;

12 (v) The date that the renewable energy system received its final
13 electrical permit from the applicable local jurisdiction.

14 (b) Within thirty days of receipt of the certification the
15 department of revenue shall advise the applicant in writing whether the
16 renewable energy system qualifies for an incentive under this section.
17 The department may consult with the climate and rural energy
18 development center to determine eligibility for the incentive. System
19 certifications and the information contained therein are subject to
20 disclosure under RCW 82.32.330(3)(m).

21 (4)(a) By August 1st of each year application for the incentive
22 shall be made to the light and power business serving the situs of the
23 system by certification in a form and manner prescribed by the
24 department that includes, but is not limited to, the following
25 information:

26 (i) The name and address of the applicant and location of the
27 renewable energy system;

28 (ii) The applicant's tax registration number;

29 (iii) The date of the letter from the department of revenue stating
30 that the renewable energy system is eligible for the incentives under
31 this section;

32 (iv) A statement of the amount of kilowatt-hours generated by the
33 renewable energy system in the prior fiscal year.

34 (b) Within sixty days of receipt of the incentive certification the
35 light and power business serving the situs of the system shall notify
36 the applicant in writing whether the incentive payment will be
37 authorized or denied. The business may consult with the climate and

1 rural energy development center to determine eligibility for the
2 incentive payment. Incentive certifications and the information
3 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

4 (c)(i) Persons receiving incentive payments shall keep and
5 preserve, for a period of five years, suitable records as may be
6 necessary to determine the amount of incentive applied for and
7 received. Such records shall be open for examination at any time upon
8 notice by the light and power business that made the payment or by the
9 department. If upon examination of any records or from other
10 information obtained by the business or department it appears that an
11 incentive has been paid in an amount that exceeds the correct amount of
12 incentive payable, the business may assess against the person for the
13 amount found to have been paid in excess of the correct amount of
14 incentive payable and shall add thereto interest on the amount.
15 Interest shall be assessed in the manner that the department assesses
16 interest upon delinquent tax under RCW 82.32.050.

17 (ii) If it appears that the amount of incentive paid is less than
18 the correct amount of incentive payable the business may authorize
19 additional payment.

20 (5) The investment cost recovery incentive may be paid fifteen
21 cents per economic development kilowatt-hour unless requests exceed the
22 amount authorized for credit to the participating light and power
23 business. For the purposes of this section, the rate paid for the
24 investment cost recovery incentive may be multiplied by the following
25 factors:

26 (a) For customer-generated electricity produced using solar modules
27 manufactured in Washington state, two and four-tenths;

28 (b) For customer-generated electricity produced using a solar or a
29 wind generator equipped with an inverter manufactured in Washington
30 state, one and two-tenths;

31 (c) For customer-generated electricity produced using an anaerobic
32 digester, or by other solar equipment or using a wind generator
33 equipped with blades manufactured in Washington state, one; and

34 (d) For all other customer-generated electricity produced by wind,
35 eight-tenths.

36 (6) No individual, household, business, or local governmental
37 entity is eligible for incentives for more than two thousand dollars
38 per year.

1 (7) If requests for the investment cost recovery incentive exceed
2 the amount of funds available for credit to the participating light and
3 power business, the incentive payments shall be reduced
4 proportionately.

5 (8) The climate and rural energy development center at Washington
6 State University energy program may establish guidelines and standards
7 for technologies that are identified as Washington manufactured and
8 therefore most beneficial to the state's environment.

9 (9) The environmental attributes of the renewable energy system
10 belong to the applicant, and do not transfer to the state or the light
11 and power business upon receipt of the investment cost recovery
12 incentive.

13 NEW SECTION. **Sec. 4.** (1) A light and power business shall be
14 allowed a credit against taxes due under this chapter in an amount
15 equal to investment cost recovery incentive payments made in any fiscal
16 year under section 3 of this act. The credit shall be taken in a form
17 and manner as required by the department. The credit under this
18 section for the fiscal year shall not exceed twenty-five one-hundredths
19 of one percent of the businesses' taxable power sales due under RCW
20 82.16.020(1)(b) or twenty-five thousand dollars, whichever is greater.
21 The credit may not exceed the tax that would otherwise be due under
22 this chapter. Refunds shall not be granted in the place of credits.
23 Expenditures not used to earn a credit in one fiscal year may not be
24 used to earn a credit in subsequent years.

25 (2) For any business that has claimed credit for amounts that
26 exceed the correct amount of the incentive payable under section 3 of
27 this act, the amount of tax against which credit was claimed for the
28 excess payments shall be immediately due and payable. The department
29 shall assess interest but not penalties on the taxes against which the
30 credit was claimed. Interest shall be assessed at the rate provided
31 for delinquent excise taxes under chapter 82.32 RCW, retroactively to
32 the date the credit was claimed, and shall accrue until the taxes
33 against which the credit was claimed are repaid.

34 (3) The right to earn tax credits under this section expires June
35 30, 2015. Credits may not be claimed after June 30, 2016.

1 NEW SECTION. **Sec. 5.** (1) Using existing sources of information,
2 the department shall report to the house appropriations committee, the
3 house committee dealing with energy issues, the senate committee on
4 ways and means, and the senate committee dealing with energy issues by
5 December 1, 2009. The report shall measure the impacts of this act,
6 including the total number of solar energy system manufacturing
7 companies in the state, any change in the number of solar energy system
8 manufacturing companies in the state, and, where relevant, the effect
9 on job creation, the number of jobs created for Washington residents,
10 and such other factors as the department selects.

11 (2) The department shall not conduct any new surveys to provide the
12 report in subsection (1) of this section.

13 NEW SECTION. **Sec. 6.** If specific funding for the purposes of this
14 act, referencing this act by bill or chapter number, is not provided by
15 June 30, 2005, in the omnibus appropriations act, this act is null and
16 void.

17 NEW SECTION. **Sec. 7.** Sections 2 through 5 of this act are each
18 added to chapter 82.16 RCW.

19 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 July 1, 2005.

 Passed by the Senate April 20, 2005.

 Passed by the House April 13, 2005.

 Approved by the Governor May 6, 2005.

 Filed in Office of Secretary of State May 6, 2005.